

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24.

FILED BY CLERK

AUG 12 2008

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

JONATHAN M. HOPF and LAURA L.)	2 CA-CV 2008-0034
HOPF, husband and wife; VALERIE)	DEPARTMENT A
CRUZ, a single woman,)	
)	<u>MEMORANDUM DECISION</u>
Plaintiffs/Appellees,)	Not for Publication
)	Rule 28, Rules of Civil
v.)	Appellate Procedure
)	
DOROTHY FIELDS, a single woman,)	
)	
Defendant/Appellant.)	

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. C2007-7372

Honorable Charles V. Harrington, Judge

AFFIRMED

Charles H. Whitehill, P.C.
By Charles H. Whitehill

Tucson
Attorney for Plaintiffs/Appellees

Dorothy Fields

Las Vegas, Nevada
In Propria Persona

H O W A R D, Presiding Judge.

¶1 Appellant Dorothy Fields appeals¹ from the trial court’s ruling finding her guilty of forcible entry and detainer of a certain residential property and ordering that appellees Jonathan Hopf, Laura Hopf, and Valerie Cruz (Hopf) be awarded possession of the property. The court further ordered that Hopf was entitled to a writ of restitution if Fields did not vacate the property within five days of the date of judgment. Because this court has not been provided with a transcript of the proceedings below, we affirm the trial court’s ruling.

¶2 We first acknowledge that Fields is not represented by counsel.² But pro se litigants are “held to the same standards expected of a lawyer.” *Kelly v. NationsBanc Mortgage Corp.*, 199 Ariz. 284, ¶ 16, 17 P.3d 790, 793 (App. 2000); *see also Copper State Bank v. Saggio*, 139 Ariz. 438, 441, 679 P.2d 84, 87 (App. 1983).

¶3 Fields did not provide this court with a transcript of the hearing on Hopf’s forcible entry and detainer complaint. The procedures for ordering transcripts are set forth

¹Fields’s notice of appeal was deficient but that deficiency did not prejudice Hopf. *See Hill v. City of Phoenix*, 193 Ariz. 570, ¶ 10, 975 P.2d 700, 702 (1999) (“[I]n assessing the validity of a defective notice of appeal, the necessary test is whether ‘sufficient notice of the appeal was conveyed to all of the appellees, neither misleading nor prejudicing them.’”), *quoting Hanen v. Willis*, 102 Ariz. 6, 10, 423 P.2d 95, 99 (1967).

²We also note that Dorothy Fields asserts in her opening brief that she and her co-defendant Dollinda Fields are appealing the trial court’s ruling. But Dorothy is acting in propria persona and cannot represent Dollinda. *See Encinas v. Mangum*, 203 Ariz. 357, ¶ 8, 54 P.3d 826, 828 (App. 2002) (non-lawyer may represent self but not family members). Dollinda Fields apparently has not filed a notice of appeal in this matter and is not, therefore, a party in the appeal before this court. *See Bloch v. Bentfield*, 1 Ariz. App. 412, 417, 403 P.2d 559, 564 (1965).

in Rule 11(b), Ariz. R. Civ. App. P. As the appellant, Fields bore the “responsibility to include in the record on appeal ‘such parts of the proceedings as [she] deem[ed] necessary.’” *In re 6757 S. Burcham Ave.*, 204 Ariz. 401, ¶ 11, 64 P.3d 843, 846-47 (App. 2003), *quoting* Ariz. R. Civ. App. P. 11(b)(1). “‘We may only consider the matters in the record before us. As to matters not in our record, we presume that the record before the trial court supported its decision.’” *Id.*, *quoting Ashton-Blair v. Merrill*, 187 Ariz. 315, 317, 928 P.2d 1244, 1246 (App. 1996); *see also State ex rel. Dep’t of Econ. Sec. v. Burton*, 205 Ariz. 27, ¶ 16, 66 P.3d 70, 73 (App. 2003). Because Fields did not include the relevant transcript in the record on appeal, we will assume that sufficient evidence was presented at the hearing to support the court’s order.

¶4 Moreover, to the extent Fields’s claim of error is based on her contention that Hopf’s title to the property is invalid, this is not an issue that can be litigated in a forcible detainer action. *See* A.R.S. § 12-1177(A) (in forcible detainer action “the merits of title shall not be inquired into”); *Curtis v. Morris*, 186 Ariz. 534, 534, 925 P.2d 259, 259 (1996). Disputes over the validity of title are more properly raised in a separate action to quiet title. *See Mason v. Cansino*, 195 Ariz. 465, ¶ 8, 990 P.2d 666, 669 (App. 1999).

¶5 In her reply brief, Fields also raises issues regarding trial court proceedings that apparently took place after the notice of appeal was filed. We do not generally address issues that an appellant raises for the first time in the reply brief. *See Mason*, 195 Ariz. 465, n.1, 990 P.2d at 668 n.1. Additionally, with the exception of a minute entry granting Fields’s

motion to stay the execution of a writ of restitution, no record of any subsequent proceedings appears in our record on appeal. And, as stated above, we cannot consider matters that are not in the record before us. *See 6757 S. Burcham Ave.*, 204 Ariz. 401, ¶ 11, 64 P.3d at 847. Accordingly, we cannot address these issues.

¶6 The trial court's judgment is affirmed.

JOSEPH W. HOWARD, Presiding Judge

CONCURRING:

JOHN PELANDER, Chief Judge

J. WILLIAM BRAMMER, JR., Judge